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SENATE BILL 10

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2007

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO ETHICS; PROHIBITING LOBBYIST GIFTS TO LEGISLATORS
AND CANDIDATES FOR THE LEGISLATURE; REQUIRING REGISTERED
LOBBYISTS TO REPORT THEIR INCOMES; AUTHORIZING THE NEW MEXICO
LEGISLATIVE COUNCIL TO PROVIDE YEAR-ROUND STAFF FOR ELECTED
LEGISLATORS FOR DUTIES DIRECTLY RELATED TO A STATE LEGISLATOR'S
OFFICE; PROHIBITING LEGISLATORS FROM SOLICITING OR RECEIVING A
CONTRIBUTION FROM A PERSON WHO HOLDS A CONTRACT WITH THE STATE
OF NEW MEXICO; PROVIDING FOR LEGISLATIVE SALARIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 2, Article 1 NMSA
1978 is enacted to read:

"[NEW MATERIAL] LEGISLATOR SALARY.--Each member of the
legislature shall receive annual salary compensation limited to
no more than the equivalent of the annual federal poverty
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1 guidelines for a family of four during the legislator's term of
2 office."

3 Section 2. A new section of Chapter 2, Article 1 NMSA
4 1978 is enacted to read:

5 "[NEW MATERIAL] EXPENSES FOR YEAR-ROUND STAFF FOR
6 LEGISLATORS.--

7 A. Pursuant to Article 4, Section 10 of the
8 constitution of New Mexico, each member of the legislature
9 shall receive an annual distribution for staffing a year-round
10 office for clerical, research and constituent services duties
11 directly related to the member's office in an amount not to
12 exceed fifteen percent of the annual salary provided for
13 justices of the New Mexico supreme court.

14 B. The New Mexico legislative council shall adopt a
15 policy to carry out the provisions of this section."

16 Section 3. Section 2-3-12 NMSA 1978 (being Laws 1951,
17 Chapter 182, Section 6, as amended) is amended to read:

18 "2-3-12. DUTIES OF DIRECTOR--ADDITIONAL EMPLOYEES.--

19 A. The director of the legislative council service
20 shall recommend to the New Mexico legislative council the
21 appointment of such technical, clerical and stenographic
22 assistants as may be necessary to carry out the provisions of
23 [~~this act~~] Chapter 2, Article 3 NMSA 1978, and the legislative
24 council, upon concurring in such appointments, shall fix the
25 compensation of each employee within the appropriations made by

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1 the legislature for the use of the legislative council. [~~Such~~]
2 Employees shall be appointed without regard to party
3 affiliation and solely on ground of fitness to perform the
4 duties of the position for which they are hired. [~~For a period~~
5 ~~commencing approximately one month prior to each session and~~
6 ~~until approximately fifteen days after the final adjournment~~
7 ~~thereof, at any regular or special session, the director may~~
8 ~~employ, subject to the approval of the legislative council, at~~
9 ~~a compensation to be fixed by the council within its budget~~
10 ~~allowance, such extra stenographic and emergency assistants,~~
11 ~~including expert legal draftsmen qualified to aid the~~
12 ~~legislators in the preparation and drafting of bills for~~
13 ~~introduction into the legislature, as may be necessary to~~
14 ~~expeditiously handle the work of the council service~~
15 ~~immediately prior to, during and immediately after the~~
16 ~~legislative sessions.]~~

17 B. The director of the legislative council service
18 shall receive application for and recommend to the New Mexico
19 legislative council the appointment of nonpolitical personnel
20 to serve for each elected legislator as staff to carry out the
21 duties of the legislative office."

22 Section 4. Section 2-11-3 NMSA 1978 (being Laws 1977,
23 Chapter 261, Section 3, as amended) is amended to read:

24 "2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--
25 MODIFICATION TO STATEMENT.--

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1 A. In the month of January prior to each regular
2 session or before any service covered by the Lobbyist
3 Regulation Act commences, any individual who is initially
4 employed or retained as a lobbyist shall register with the
5 secretary of state by paying an annual filing fee of twenty-
6 five dollars (\$25.00) for each of the lobbyist's employers and
7 by filing a single registration statement under oath on a
8 prescribed form showing:

9 (1) the lobbyist's full name, permanent
10 business address and business address while lobbying; and

11 (2) the name and address of each of the
12 lobbyist's employers.

13 B. No registration fee shall be required of
14 individuals receiving only reimbursement of personal expenses
15 and no other compensation or salary for lobbying. No
16 expenditure statement required by Section 2-11-6 NMSA 1978
17 shall be required if the lobbyist anticipates making or
18 incurring and makes or incurs no expenditures or political
19 contributions under Section 2-11-6 NMSA 1978. The lobbyist
20 shall indicate in [~~his~~] the lobbyist's registration statement
21 whether those circumstances apply to [~~him~~] the lobbyist.

22 C. For each employer listed in Paragraph (2) of
23 Subsection A of this section, the lobbyist shall file the
24 following information:

25 (1) a full disclosure of the sources of funds

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1 used for lobbying;

2 (2) a written statement from each of the
3 lobbyist's employers authorizing [~~him~~] the lobbyist to lobby on
4 the employer's behalf;

5 (3) a brief description of the matters in
6 reference to which the service is to be rendered; [~~and~~]

7 (4) the name and address of the person, if
8 other than the lobbyist or [~~his~~] the lobbyist's employer, who
9 will have custody of the accounts, bills, receipts, books,
10 papers and documents required to be kept under the provisions
11 of the Lobbyist Regulation Act; and

12 (5) the compensation to be paid the lobbyist
13 for lobbying services, whether on contract or through salary.

14 D. For each succeeding year that an individual is
15 employed or retained as a lobbyist by the same employer, and
16 for whom all the information disclosed in the initial
17 registration statement remains substantially the same, the
18 lobbyist shall file a simple annual registration renewal in
19 January and pay the twenty-five-dollar (\$25.00) filing fee for
20 each of the lobbyist's employers together with a short,
21 abbreviated prescribed form for renewal.

22 E. Whenever there is a modification of the facts
23 required to be set forth by this section or there is a
24 termination of the lobbyist's employment as a lobbyist before
25 the end of the calendar year, the lobbyist shall notify the

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1 secretary of state within one month of such occurrence and
2 shall furnish full information concerning the modification or
3 termination. If the lobbyist's employment terminates at the
4 end of a calendar year, no separate termination report need be
5 filed."

6 Section 5. Section 2-11-6 NMSA 1978 (being Laws 1977,
7 Chapter 261, Section 6, as amended) is amended to read:

8 "2-11-6. EXPENDITURE AND COMPENSATION REPORT TO BE
9 FILED--CONTENTS--REPORTING PERIODS.--

10 A. Each lobbyist or lobbyist's employer who
11 receives compensation for lobbying services or who makes or
12 incurs expenditures or political contributions for the benefit
13 of or in opposition to [~~a state legislator or candidate for the~~
14 ~~state legislature~~] a state public officer or candidate for
15 state public office, a board or commission member or state
16 employee who is involved in an official action affecting the
17 lobbyist's employer or in support of or in opposition to a
18 ballot issue or pending legislation or official action shall
19 file an expenditure and compensation report with the secretary
20 of state on a prescribed form or in an electronic format
21 approved by the secretary of state. The expenditure and
22 compensation report shall include a sworn statement that sets
23 forth:

24 (1) the cumulative total of the expenditures
25 made or incurred, separated into categories that identify the

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1 total separate amounts spent on:

2 (a) meals and beverages;

3 (b) other entertainment expenditures;

4 (c) gifts; and

5 (d) other expenditures;

6 (2) each political contribution made,
7 identified by amount, date and name of the candidate or ballot
8 issue supported or opposed; ~~and~~

9 (3) the names, addresses and occupations of
10 other contributors and the amounts of their separate political
11 contributions if the lobbyist or lobbyist's employer delivers
12 directly or indirectly separate contributions from those
13 contributors in excess of five hundred dollars (\$500) in the
14 aggregate for each election to a candidate, a campaign
15 committee or anyone authorized by a candidate to receive funds
16 on the candidate's behalf;

17 (4) in a report filed by a lobbyist, the
18 compensation received by the lobbyist from each of the
19 lobbyist's employers or clients; and

20 (5) in a report filed by a lobbyist's employer
21 or client, the total compensation paid each lobbyist by the
22 employer for lobbying services.

23 B. If the expenditure and compensation report is
24 filed electronically, the report shall be electronically
25 authenticated by the lobbyist or the lobbyist's employer using

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1 an electronic signature as prescribed by the secretary of state
2 in conformance with the Electronic Authentication of Documents
3 Act and the Uniform Electronic Transactions Act. For the
4 purposes of the Lobbyist Regulation Act, a report that is
5 electronically authenticated in accordance with the provisions
6 of this subsection shall be deemed to have been subscribed and
7 sworn to by the lobbyist or the lobbyist's employer that is
8 required to file the report.

9 C. In identifying expenditures pursuant to the
10 provisions of Paragraph (1) of Subsection A of this section,
11 any individual expenditure that is more than the threshold
12 level established in the Internal Revenue Code of 1986, as
13 amended, that must be reported separately to claim a business
14 expense deduction, as published by the secretary of state,
15 shall be identified by amount, date, purpose, type of
16 expenditure and name of the person who received or was
17 benefited by the expenditure; provided, in the case of special
18 events, including parties, dinners, athletic events,
19 entertainment and other functions [~~to which all members of the~~
20 ~~legislature, to which all members of either house or any~~
21 ~~legislative committee or~~] to which all members of a board or
22 commission are invited, expenses need not be allocated to each
23 individual who attended, but the date, location, name of the
24 body invited and total expenses incurred shall be reported.

25 D. The reports required pursuant to the provisions

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1 of the Lobbyist Regulation Act shall be filed:

2 (1) by January 15 for all compensation
3 received and all expenditures and political contributions made
4 or incurred during the preceding year and not previously
5 reported;

6 (2) within forty-eight hours for each separate
7 expenditure made or incurred during a legislative session that
8 was for five hundred dollars (\$500) or more; and

9 (3) by May 1 for all compensation received and
10 all expenditures and political contributions made or incurred
11 through April 25 of the current year and not previously
12 reported.

13 E. A lobbyist's personal living expenses and the
14 expenses incidental to establishing and maintaining an office
15 in connection with lobbying activities [~~or compensation paid to~~
16 ~~a lobbyist by a lobbyist's employer~~] need not be reported.

17 F. A lobbyist or lobbyist's employer shall obtain
18 and preserve all records, accounts, bills, receipts, books,
19 papers and documents necessary to substantiate the financial
20 statements required to be made under the Lobbyist Regulation
21 Act for a period of two years from the date of filing of the
22 report containing such items. When the lobbyist is required
23 under the terms of the lobbyist's employment to turn over any
24 such records to the lobbyist's employer, responsibility for the
25 preservation of them as required by this section and the filing

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1 of reports required by this section shall rest with the
2 employer. Such records shall be made available to the
3 secretary of state or attorney general upon written request.

4 G. ~~[Any]~~ A lobbyist's employer who also engages in
5 lobbying shall comply with the provisions of the Lobbyist
6 Regulation Act.

7 H. An organization of two or more persons,
8 including an individual who ~~[holds himself out]~~ makes any
9 representation as being an organization, that within one
10 calendar year expends funds in excess of two thousand five
11 hundred dollars (\$2,500) not otherwise reported under the
12 Lobbyist Regulation Act to conduct an advertising campaign for
13 the purpose of lobbying shall register with the secretary of
14 state within forty-eight hours after expending two thousand
15 five hundred dollars (\$2,500). Such registration shall
16 indicate the name of the organization and the names, addresses
17 and occupations of any of its principals, organizers or
18 officers and shall include the name of any lobbyist or
19 lobbyist's employer who is a member of the organization.
20 Within fifteen days after a legislative session, the
21 organization shall report the contributions, pledges to
22 contribute, expenditures and commitments to expend for the
23 advertising campaign for the purpose of lobbying, including the
24 names, addresses and occupations of the contributors, to the
25 secretary of state on a prescribed form."

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1 Section 6. Section 2-11-7 NMSA 1978 (being Laws 1977,
2 Chapter 261, Section 7, as amended) is amended to read:

3 "2-11-7. EACH REGISTRATION [AND EXPENDITURE] STATEMENT
4 AND EACH EXPENDITURE AND COMPENSATION REPORT--PRESERVATION AS
5 PUBLIC RECORD.--Each registration [and expenditure] statement
6 and each expenditure and compensation report as required by the
7 Lobbyist Regulation Act shall be preserved by the secretary of
8 state for a period of two years from the date of filing as a
9 public record, open to public inspection at any reasonable
10 time. Unless an action or prosecution is pending that requires
11 preserving the report, it may be destroyed two years after the
12 date of filing."

13 Section 7. Section 2-11-8.1 NMSA 1978 (being Laws 1993,
14 Chapter 46, Section 23, as amended) is amended to read:

15 "2-11-8.1. RESTRICTIONS ON CAMPAIGN ACTIVITIES AND
16 CONTRIBUTIONS.--

17 A. No lobbyist may serve as a campaign [~~chairman~~]
18 chair, treasurer or fundraising [~~chairman~~] chair for a
19 candidate for the legislature or a statewide office.

20 B. It is unlawful at any time for a lobbyist or
21 lobbyist's employer to make a political contribution to or to
22 act as an agent or intermediary for a political contribution to
23 a legislator or the campaign fund of a legislator or candidate
24 for the state legislature, except when the lobbyist is acting
25 in an individual capacity.

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1 C. It is unlawful at any time for a lobbyist or
2 lobbyist's employer to contribute anything of value, including
3 a gift, subscription, loan, advance or deposit of money or any
4 other thing of value with the exception of a certificate or
5 plaque in appreciation of service rendered to a legislator or
6 legislative committee, except when the lobbyist is acting in an
7 individual capacity.

8 [~~B.~~] D. It is unlawful during the prohibited period
9 for any lobbyist or lobbyist's employer to contribute to or act
10 as an agent or intermediary for political contributions to or
11 arrange for the making of political contributions to the
12 campaign funds of any statewide elected official [~~or~~
13 ~~legislator~~] or [~~any~~] a candidate for [~~those offices~~] such
14 office.

15 [~~C.~~] E. For purposes of this section, "prohibited
16 period" is that period beginning January 1 prior to any regular
17 session of the legislature or, in the case of a special
18 session, after the proclamation has been issued, and ending on:

- 19 (1) the day the session ends for:
- 20 (a) any statewide elected official or
21 candidate for statewide office except the governor; and
22 (b) a legislator or any candidate for
23 the legislature; and

24 (2) the twentieth day following the
25 adjournment of the regular or special session for the governor

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1 or candidate for governor."

2 Section 8. Section 10-16-4.1 NMSA 1978 (being Laws 1993,
3 Chapter 46, Section 38) is amended to read:

4 "10-16-4.1. HONORARIA PROHIBITED.--

5 A. No [legislator] public officer or employee may
6 request or receive an honorarium for a speech or service
7 rendered that relates to the performance of public duties. For
8 the purposes of this [section] subsection, "honorarium" means
9 payment of money, or any other thing of value in excess of one
10 hundred dollars (\$100), but does not include reasonable
11 reimbursement for meals, lodging or actual travel expenses
12 incurred in making the speech or rendering the service, or
13 payment or compensation for services rendered in the normal
14 course of a private business pursuit.

15 B. No legislator may request or receive an
16 honorarium that relates to the performance of public duties.
17 For purposes of this subsection, "honorarium" means payment of
18 money or any other thing of value and includes reimbursement
19 for meals, lodging, travel expenses, payment or compensation
20 for services rendered in the normal course of a private
21 business pursuit."

22 Section 9. Section 10-16-9 NMSA 1978 (being Laws 1967,
23 Chapter 306, Section 9, as amended) is amended to read:

24 "10-16-9. CONTRACTS INVOLVING LEGISLATORS--REPRESENTATION
25 BEFORE STATE AGENCIES.--

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1 A. A state agency shall not enter into any
2 procurement contract for services, construction or items of
3 personal property with a legislator or with a business in which
4 the legislator has a substantial interest unless the legislator
5 has disclosed [~~his~~] the legislator's substantial interest and
6 unless the contract is awarded in accordance with the
7 provisions of the Procurement Code.

8 B. A legislator shall not appear for, represent or
9 assist another person in any matter before a state agency,
10 unless without compensation or for the benefit of a
11 constituent, except for legislators who are attorneys or other
12 professional persons engaged in the conduct of their
13 professions and, in those instances, the legislator shall
14 refrain from references to [~~his~~] the legislator's legislative
15 capacity except as to matters of scheduling, from
16 communications on legislative stationery and from threats or
17 implications relating to legislative actions.

18 C. A legislator, legislative candidate or
19 legislator's campaign committee shall not accept or solicit a
20 contribution, directly or indirectly, from a person that has a
21 current contract with the state of New Mexico for goods or for
22 services."

23 Section 10. REPEAL.--Section 2-1-3 NMSA 1978 (being Laws
24 1943, Chapter 18, Section 1, as amended) is repealed.

25 Section 11. CONTINGENT EFFECTIVE DATE.--The provisions of
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1 Sections 1 through 3 and 10 of this act shall become effective
2 upon certification by the secretary of state that the
3 constitution of New Mexico has been amended as proposed by a
4 joint resolution of the legislature amending Article 4, Section
5 10 of the constitution of New Mexico to provide for legislative
6 salaries and to provide an annual distribution to members of
7 the legislature for staff.

8 Section 12. EFFECTIVE DATE.--The effective date of the
9 provisions of Sections 4 through 9 of this act is July 1, 2009.

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